



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Masami SHIRAI et al.

Group Art Unit: 3662

Appln. No. : 10/602,862

Examiner: Luke RATCLIFFE

Filed : June 25, 2003

Confirmation No.: 2111

For : SURVEYING SYSTEM

**RESPONSE TO RESTRICTION REQUIREMENT, WITH TRAVERSE**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building  
401 Dulany Street  
Alexandria VA 22314

Sir:

**ELECTION**

In response to the Examiner's restriction requirement of August 29, 2005, in which the one month shortened statutory period for responding thereto runs to September 29, 2005, Applicants elect, with traverse, the Species identified by the Examiner as embodiment I, related to a position with reference to a schematic. Claims 1-37 are considered to be "readable" on the elected species.

**TRAVERSE**

Applicants respectfully traverse the Examiner's restriction requirement.

The standard by which the Office guides Examiners in requiring restriction under 35 U.S.C. §121 is set forth in M.P.E.P. Chapter 800. In Section 803 it is stated that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that there are at least two factors which individually and collectively support Applicants' position that there would not appear to


be a "serious burden" in examining claims directed to each of the inventions identified by the Examiner.

Firstly, the Examiner has not to set forth any grounds as to why examining all the claims in the application would be burdensome. Secondly, the Examiner has not indicated why it is necessary to issue a species restriction. In this regard, M.P.E.P. §809 specifies that the Examiner identify each species by figure, or in the absence of distinct figures, identify the species by distinguishing characteristics. The Examiner has not done this.

Therefore, due to an apparent lack of a serious burden, as recognized in M.P.E.P. §803 as being a prerequisite to a proper restriction requirement, and due to the failure to identify each species by figure or distinguishing characteristics, Applicants respectfully request that the restriction requirement be withdrawn.

For all of the foregoing reasons, Applicants respectfully request the restriction requirement be reconsidered and withdrawn. Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,  
Masami SHIRAI et al.



Bruce H. Bernstein  
Reg. No. 29,027

September 29, 2005  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191

Steven Wegman  
Reg. No. 31,438